

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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RONALD J. ALLISON,

Case No. 2:21-cv-02024-GMN-DJA

Plaintiff,

ORDER

v.

STEIN FORENSICS UNIT,

Defendant.

Plaintiff Ronald J. Allison brings this civil-rights action under 42 U.S.C. § 1983 to redress constitutional violations that he claims he suffered while incarcerated at Southern Nevada Adult Mental Health Services. (ECF No. 1-1.) On November 15, 2021, this Court ordered Ronald J. Allison to file a complaint in compliance with Local Special Rule 2-1 ("LSR 2-1") and a fully complete application to proceed *in forma pauperis* or pay the full \$402 filing fee on or before January 11, 2022. (ECF No. 3.) The Court warned Ronald J. Allison that the action could be dismissed if he failed to file a complaint in compliance with LSR 2-1 and a fully complete application to proceed *in forma pauperis* with all three documents or pay the full \$402 filing fee for a civil action by that deadline. (*Id.* at 5.) That deadline expired and Ronald J. Allison did not file a complaint in compliance with LSR 2-1 or a fully complete application to proceed *in forma pauperis*, pay the full \$402 filing fee, or otherwise respond.

I. DISCUSSION

District courts have the inherent power to control their dockets and "[i]n the exercise of that power, they may impose sanctions including, where appropriate . . . dismissal" of a case. *Thompson v. Hous. Auth. of City of Los Angeles*, 782 F.2d 829, 831 (9th Cir. 1986). A court may dismiss an action based on a party's failure to obey a court

1 order or comply with local rules. See *Carey v. King*, 856 F.2d 1439, 1440-41 (9th Cir.
2 1988) (affirming dismissal for failure to comply with local rule requiring *pro se* plaintiffs to
3 keep court apprised of address); *Malone v. U.S. Postal Service*, 833 F.2d 128, 130 (9th
4 Cir. 1987) (dismissal for failure to comply with court order). In determining whether to
5 dismiss an action on one of these grounds, the Court must consider: (1) the public's
6 interest in expeditious resolution of litigation; (2) the Court's need to manage its docket;
7 (3) the risk of prejudice to the defendants; (4) the public policy favoring disposition of
8 cases on their merits; and (5) the availability of less drastic alternatives. See *In re*
9 *Phenylpropanolamine Prod. Liab. Litig.*, 460 F.3d 1217, 1226 (9th Cir. 2006) (quoting
10 *Malone v. U.S. Postal Serv.*, 833 F.2d 128, 130 (9th Cir. 1987)).

11 The first two factors, the public's interest in expeditiously resolving this litigation
12 and the Court's interest in managing its docket, weigh in favor of dismissal of Ronald J.
13 Allison's claims. The third factor, risk of prejudice to defendants, also weighs in favor of
14 dismissal because a presumption of injury arises from the occurrence of unreasonable
15 delay in filing a pleading ordered by the court or prosecuting an action. See *Anderson v.*
16 *Air West*, 542 F.2d 522, 524 (9th Cir. 1976). The fourth factor—the public policy favoring
17 disposition of cases on their merits—is greatly outweighed by the factors favoring
18 dismissal.

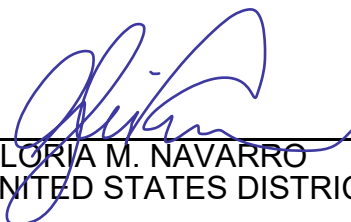
19 The fifth factor requires the Court to consider whether less drastic alternatives can
20 be used to correct the party's failure that brought about the Court's need to consider
21 dismissal. See *Yourish v. Cal. Amplifier*, 191 F.3d 983, 992 (9th Cir. 1999) (explaining
22 that considering less drastic alternatives *before* the party has disobeyed a court order
23 does not satisfy this factor); accord *Pagtalunan v. Galaza*, 291 F.3d 639, 643 & n.4 (9th
24 Cir. 2002) (explaining that “the persuasive force of” earlier Ninth Circuit cases that
25 “implicitly accepted pursuit of last drastic alternatives prior to disobedience of the court's
26 order as satisfying this element[,]” *i.e.*, like the “initial granting of leave to amend coupled
27 with the warning of dismissal for failure to comply[,]” have been “eroded” by *Yourish*).
28 Courts “need not exhaust every sanction short of dismissal before finally dismissing a

1 case, but must explore possible and meaningful alternatives.” *Henderson v. Duncan*, 779
2 F.2d 1421, 1424 (9th Cir. 1986). Because this action cannot realistically proceed until and
3 unless Ronald J. Allison either files a complaint in compliance with LSR 2-1 and a fully
4 complete application to proceed *in forma pauperis* or pays the \$402 filing fee for a civil
5 action, the only alternative is to enter a second order setting another deadline. But the
6 reality of repeating an ignored order is that it often only delays the inevitable and
7 squanders the Court’s finite resources. The circumstances here do not indicate that this
8 case will be an exception: there is no hint that Ronald J. Allison needs additional time.
9 Setting another deadline is not a meaningful alternative given these circumstances. So
10 the fifth factor favors dismissal.

11 II. CONCLUSION

12 Having thoroughly considered these dismissal factors, the Court finds that they
13 weigh in favor of dismissal. IT IS THEREFORE ORDERED that this action is dismissed
14 without prejudice based on Ronald J. Allison's failure to file a complaint in compliance
15 with LSR 2-1 and a fully complete application to proceed *in forma pauperis* or pay the full
16 \$402 filing fee in compliance with this Court’s November 15, 2021, order. The Clerk of
17 Court is directed to enter judgment accordingly and close this case. No other documents
18 may be filed in this now-closed case. If Ronald J. Allison wishes to pursue his claims, he
19 must file a complaint in a new case.

20 DATED: January 18, 2022

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24 GLORIA M. NAVARRO
25 UNITED STATES DISTRICT JUDGE
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